

COPIES

RECEIPT #

OCA 86-0785
19 March 1986

MEMORANDUM FOR: Director, Office of Congressional Affairs

STAT
FROM:Legislation Division
Office of Congressional AffairsSUBJECT: Fiscal Year 1987 Intelligence Authorization
Act - Transmittal of Administration Draft Bill
to SSCI

1. On March 17, 1986, I met with Gary Chase, Chief Counsel, Senate Select Committee on Intelligence (SSCI) and Daniel Finn, Minority Counsel, SSCI. I gave them a copy of the Administration-approved draft of the Intelligence Authorization Act for Fiscal Year 1987. I also gave them a copy of the transmittal letter of March 14, 1986 from the Acting Director of Central Intelligence to the President of the Senate. We then reviewed the provisions of the bill as follows.

2. "Drug & Alcohol Abuse" Exception for CIA, NSA & DIA. Both Mr. Chase and Mr. Finn objected to the inclusion in the bill of the "drug and alcohol" provision. Both said that they did not believe the case had been made for the necessity of relief: while there was a potential for future harm based on the cases cited in support of the legislation, there was no actual present harm. Therefore, they did not see the need for the provision. Further, they saw great difficulties in persuading the Senate Government Operations Committee, the committee which would have jurisdiction over the bill on sequential referral were it to come out of the SSCI with such a provision in it, of the need for the legislation. Based on our conversations, I would say that it is extremely unlikely that the SSCI will put this provision into their version of the bill.

3. FBI Counterterrorism/Counterintelligence Authorities. Both Mr. Chase and Mr. Finn were positive about the provisions in Title VI of the bill which originated with the Federal Bureau of Investigation (FBI). Mr. Finn supported holding a hearing on the various provisions while Mr. Chase initially did not concur in the approach. They indicated they would review the matter together and get back to us. I emphasized it

appeared that the FBI-access-to-bank-records provision seemed to have support around the Congress and that the quarters which might have been expected to object to it have not done so (and, in fact, had seemed to accept it).

4. Interlocutory Appeal. Mr. Finn objected to the provision. He simply did not believe that the handful of cases which gave rise to this legislation are sufficient to justify the need for it, especially in light of the other options open to the Agency on appeal and the lukewarm support for the legislation from the Department of Justice. Further, he felt that while the legislation was cast for purposes of defensive litigation, it was susceptible to the connotation that the Agency would use it to affirmatively interfere in litigation to which it was not a party but in which it asserted an interest. Mr. Finn also foresaw great objections to the provision from the Senate Judiciary Committee which would get on sequential referral any bill reported out of SSCI containing such a provision. In particular, he believed that the Agency's inability to point to more than a handful of cases would not go well before a potentially hostile Judiciary Committee.

5. Mr. Chase was not as negative but felt that the provision could be drawn much tighter. In particular, he believed that the provision should be amended so that either the Director of Central Intelligence would "certify" as to damage to the national intelligence mission only or the Attorney General would make the broader certification as to damage to the national security. They indicated that they would review the matter together and get back to us.

STAT

7. Restrictions on Reserve for Contingencies. An indication was given that the SSCI may be considering a restriction on the Agency's Reserve for Contingencies, but no details on it were available.

8. Reporting Requirement for Military Arms Transfers. Neither Mr. Chase nor Mr. Finn gave any indication that the SSCI was considering including in the bill a reporting requirement vis a vis military arms transfers.

STAT 9. Schedule. Mssrs. Chase and Finn indicated that the SSCI calendar had a space scheduled for a "hearing" or "markup" on Monday, April 21, 1986. They anticipated that the Committee would likely "mark up" and report out the legislation on that day.



Distribution:

Original - Addressee

1 - DDL/OCA

1 - EXO/OCA

✓ 1 - OCA Chrono

1 - LEG/OCA/SUB - FY 87 Intel Auth

1 - PS Simer

STAT LEG/OCA jb (20 Mar 86)